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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Ravi ACHARYA, et. al.

Serial No. 09/506,434

Filed: February 18, 2000

For: SYSTEM AND METHOD FOR
ELECTRONIC DEPOSIT OF
THIRD PARTY CHECKS BY
NON-COMMERCIAL BANKING
CUSTOMERS FROM REMOTE
LOCATIONS

Attorney Reference: 47004.000059

Group Art Unit: 3624

Examiner: James S. Bergin

EV215462486US

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

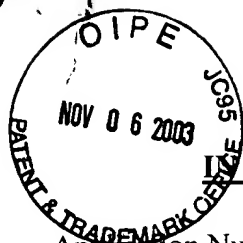
Transmitted herewith is a Petition to Withdraw Abandonment and Alternatively Petition for Correspondence Never Received in response to the Notice of Abandonment mailed on October 1, 2003.

It is believed that no fees are due upon the filing of this Petition. If any fees are determined to be due, the Commissioner is authorized to charge such fees to the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

Date: November 6, 2003

By: Nancy J. Flint
HUNTON & WILLIAMS
Nancy J. Flint
Registration No. 46,704
1111 Brickell Avenue
Suite 2500
Miami, Florida 33131
Tel. (305) 810-2522
Fax: (305) 810-2460

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application Number : 09/506,434 Confirmation No.: 8248
Applicant : Ravi Acharya et. al.
Filed : February 18, 2000
Title : System and Method for Electronic Deposit of Third Party Checks By
Non-Commercial Banking Customers From Remote Locations
TC/Art Unit : 3624
Examiner: : James Bergin

Docket No. : 47004.000059
Customer No. : 21967

MAIL STOP PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R.
§ 1.181(a) AND ALTERNATIVELY PETITION FOR CORRESPONDENCE NEVER
RECEIVED UNDER 37 C.F.R. § 1.9(b)

Sir:

Applicants hereby submit this Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181(a) and alternatively, this Petition for Correspondence Never Received under 37 C.F.R. § 1.9(b), and respectfully request that the holding of abandonment of the application be withdrawn based on the facts set forth herein.

BACKGROUND

Applicants filed this application on February 18, 2000. On September 11, 2002, Examiner Bergin mailed a Final Rejection to Applicants. In response, Applicants submitted an Amendment after Final Rejection on January 7, 2003. This Amendment after Final Rejection was not received by the Examiner, and Applicants resubmitted the Amendment after Final Rejection in addition to a Notice of Appeal on March 11, 2003. *See* Exhibit A (Notice of Appeal and Resubmission of Amendment after Final Rejection, March 11, 2003). Applicants were notified that the March 11, 2003 submissions had not been received by the Examiner, and on May 22, 2003, Applicants resubmitted to Supervisor Vincent Millin the Notice of Appeal and the

Amendment after Final Rejection. *See* Exhibit B (Communication to Resubmit Notice of Appeal and the Amendment after Final Rejection, May 22, 2003). On May 30, 2003, Examiner Bergin mailed an Advisory Action notifying Applicants that the Notice of Appeal had been received, and that the Amendment after Final Rejection would not be entered. *See* Exhibit C (Advisory Action, mailing date May 30, 2003). Applicants then filed on June 11, 2003 a Request for Continued Examination requesting that the Amendment after Final Rejection be entered. *See* Exhibit D (Request for Continued Examination, June 11, 2003). Applicants received a Notice of Abandonment that was mailed on October 1, 2003 notifying that the application was abandoned due to an alleged failure to file a proper reply to the Office Action mailed on September 11, 2002. *See* Exhibit E (Notice of Abandonment, mailing date October 1, 2003).

Applicants respectfully submit that a proper reply to the September 11, 2002 Office Action was filed by virtue of the filing of (1) the Amendment after Final Rejection on January 7, 2003, resubmitted on March 11, 2003 and resubmitted again on May 22, 2003; (2) the Notice of Appeal on March 11, 2003, resubmitted on May 22, 2003; and (3) the Request for Continued Examination on June 11, 2003. Therefore, Applicants request that the Notice of Abandonment be withdrawn. Alternatively, if the Request for Continued Examination was not received by the Office or was otherwise lost, Applicants submit evidence that the Request for Continued Examination was in fact filed by the Applicants' undersigned representative by facsimile transmission on June 11, 2003, and request that the Request for Continued Examination be entered as of its original filing date of June 11, 2003 and that the Notice of Abandonment be withdrawn.

I. Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181(a).

The MPEP provides that a petition from an examiner's holding of abandonment is proper where an applicant contends that the application is not in fact abandoned. *See* MPEP § 711.03(c).I. In such a case, "a petition under 37 C.F.R. § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action." *Id.* Further, such a petition "does not require a fee." *Id.* 37 C.F.R. § 1.181(f) further provides that any petition not filed within two months from the action complained of may be dismissed as untimely.

Here, Applicants contend that the application is not abandoned. Applicants timely filed a Notice of Appeal, and then filed a Request for Continued Examination three (3) months after filing of the Notice of Appeal. In addition, Applicants submitted the required submission for the Request for Continued Examination by requesting that the Amendment after Final Rejection filed on January 7, 2002, resubmitted on March 11, 2003 and resubmitted again on May 22, 2003 be considered. There has been no allegation that Applicants' Amendment after Final Rejection was not a proper reply to the Office Action of September 11, 2002. Therefore, the application was not abandoned and the Notice of Abandonment should be withdrawn.

Since this Petition has been filed within two (2) months of the mailing date of the Notice of Abandonment, it is presumptively timely and Applicants respectfully request that the Petition be granted.

II. Petition for Correspondence Never Received under 37 C.F.R. § 1.9(b).

Applicants transmitted the Request for Continued Examination by facsimile on June 11, 2003. The submission included a Certificate of Transmission (*see* Exhibit D) that lists the Request for Continued Examination for the application. Also, a report from the sender's facsimile machine is included in Exhibit D that shows that the undersigned Applicants' representative successfully sent the Request for Continued Examination for the application by facsimile on June 11, 2003. Also included in Exhibit D is an Auto Reply Facsimile Transmission receipt from the US. Patent Office showing successful receipt of three pages from Applicant's undersigned representative on June 11, 2003, and which specifically refers to the attached Request for Continued Examination.

III. Statement attesting personal knowledge that the Request for Continued Examination was timely sent by facsimile transmission to the Patent Office on June 11, 2003.

Applicants' undersigned representative further attests that she has personal knowledge that the Request for Continued Examination and the Certificate of Transmission, both of which bear her signature, were in fact transmitted to the U.S. Patent Office on June 11, 2003.

CONCLUSION

Based on this evidence, Applicants respectfully submit that they have provided sufficient evidence that the Request for Continued Examination was in fact sent to the Patent Office via facsimile transmission on June 11, 2003. Therefore, the Notice of Abandonment should be withdrawn and the Amendment after Final Rejection should be entered and considered.

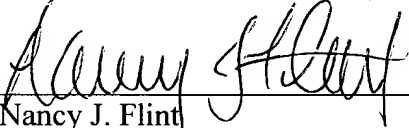
Applicants believe that no fee is due upon the filing of this Petition. If any fees are found to be due, the Commissioner is hereby authorized to deduct such fees from the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

HUNTON & WILLIAMS LLP

Dated: November 6, 2003
Hunton & Williams LLP
Intellectual Property Department
1900 K Street, N.W.
Suite 1200
Washington, DC 20006-1109
(305) 810-2522 (telephone)
(305) 810-1615 (facsimile)
NJF/kdb

By:



Nancy J. Flint
Registration No. 46,704